

glutamate salt, pidolate salt, methyl ester and ethyl ester.

71  
Conceded  
Rule  
126  
Claim 45 (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the member is arginine.

46  
Claim 45 (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the salt is arginine pidolate.

---

Cancel claims 41 to 43 and 55.

#### REMARKS

Reconsideration of this application is requested in view of the proposed amendments to the claims and the remarks presented herein. Entry of the amendment is requested under the provisions of Rule 116 as it puts the application in condition for allowance or in better condition for appeal.

The claims in the application are claims 40, 44, 46 to 54 and 56 to 58, all other claims having been cancelled.

Claims 40 to 58 were rejected under 35 USC 112, second paragraph, as being indefinite. The Examiner objected to certain phrases in the claims and the expression "basic amount". Claim 55 was objected to as being drawn to an insufficient specification since the specification did not describe a cosmetic base.

Applicants respectfully traverse these grounds of rejection since the amended claims are believed to properly define the

invention. Claims 40 and 44 have been amended to avoid the terms objected to by the Examiner and claim 55 has been cancelled. Therefore, the amended claims are believed to properly define the invention and withdrawal of these grounds of rejection is requested.


All of the claims remain rejected under 35 USC 103 as being obvious over the Japanese '057 reference. The Examiner was of the opinion that the claims were broad enough to read upon the reference compositions. The Examiner was of the opinion that Applicants' have admitted that the prior art has a use and the comprising language does not exclude ingredients and the method of treatment does not distinguish.

Applicants again traverse this ground of rejection since it is believed that the claims clearly distinguish from the reference cited by the Examiner and the term "comprising" has been changed to "consisting essentially of" which would exclude ingredients which would change the nature of the composition. For the Examiner's convenience, Applicants are submitting herewith a copy of the Japanese reference and English translation thereof and it is believed that the same clearly shows that claims distinguish from the reference. The translation supplied by the Patent Office was not deemed to be accurate. As can be seen from the single claim of the reference, the invention is directed to a soft drink characterized in that it contains among other ingredients, "some

brine" and brine is mostly similar to body fluid, blood serum and amnion liquid. An ideal soft drink can be produced by simply incorporating brine into the usual soft drink and while there are many definitions for brine, it usually refers to aqueous sodium chloride and not seawater. Moreover, the reference is not directed to a soft drink but, rather, is directed to a pharmaceutical cosmetic or hygienic composition. It does not include a soft drink to which 3 to 5% brine has been added. The Japanese reference in no way refers to seawater but merely brine which, as noted above, is usually aqueous sodium chloride. Therefore, it is not deemed that the reference in any way teaches Applicants' invention and there is no teaching whatsoever of any pharmaceutical hygienic or cosmetic use but merely as a soft drink. Therefore, withdrawal of this ground of rejection is requested.

In view of the proposed amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,  
Bierman, Muserlian and Lucas

By:   
Charles A. Muserlian #19,683  
Attorney for Applicants  
Tel.# (212) 661-8000

CAM:ds  
Enclosures

MARKED UP VERSION OF CLAIMS SHOWING CHANGES MADE

**Claim 40** (amended) A pharmaceutical, hygienic or cosmetic composition [comprising] consisting essentially of as active ingredients a combination of 3 to 95% by weight of seawater and [a basic amino acid found in its natural form, or its salts or esters or at least one of a plant and animal extract, or a phytoplankton extract form, in combination or admixed] 0.0001 to 10% by weight of at least one member of the group consisting of arginine, homoarginine, lysine, diamino pimelic acid, diamino valeric acid, carnitine, guanidine, homarine,  $\alpha$ -methyl-m-tyrosine, N-methyl-aspartic acid, ornithine, sarcosine and salts thereof, algae extract, bacterial extracts, extracts of marine, thermal and lake mud and phytoplankton extract with an inert non-toxic carrier or excipient, appropriate for the said application.

**Claim 44** (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the salt [basic amino acid] is [in a form] selected from the group consisting of hydrochloride salt, dihydrochloride salt, glutamate salt, pidolate salt, methyl ester and ethyl ester.

**Claim 45** (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the member [basic amino acid] is arginine.

*Rule 126*  
**Claim <sup>46</sup>45** (amended) A pharmaceutical, hygienic or cosmetic composition of claim 40, wherein the salt [of a basic amino acid] is arginine pidolate.

⑨ 日本国特許庁(JP)

⑩ 特許出願公開

## ⑫ 公開特許公報(A) 平4-126057

⑬ Int. Cl.

識別記号

庁内整理番号

⑭ 公開 平成4年(1992)4月27日

A 23 L 2/38

B

9162-4B

審査請求 有 請求項の数 1 (全2頁)

⑮ 発明の名称 海水入り清涼飲料水

⑯ 特 題 平2-244103

⑰ 出 題 平2(1990)9月17日

⑱ 発 明 者 佐 藤 唯 行 東京都江東区北砂6-20-22

⑲ 出 願 人 株式会社日医提携広運 東京都江東区北砂6-20-22

明 記 事

1. 発明の名称

海水入り清涼飲料水

人体に吸収しやすい清涼飲料水が普及し  
ておられるが、後述のごとき問題点がある  
ことに着目して行われた

2. 特許請求の範囲

海水、適量の水、糖類、果汁、ビタミン、  
アミノ酸、ビタミン類、香料、酸、炭酸、  
香味料、甘味料、炭酸ガス、乳酸菌、ハチミツ、  
ニコチン酸、レグルン酸トリウム、酸味料、  
着色料、安定剤、乳化剤、繊維、  
脂肪、脂肪、アミノ酸、カフェイン、炭酸ガス、  
と混合液に清涼飲料水

(1) 発明が解決しようとする問題点

天然や合成の単一のミネラルの組み合わせ  
で成る清涼飲料水に欠点がある。水分や  
電解質を補給するだけでなく  
バランスのとれた各種ミネラルを同時  
に摂取する事が理想的な事は多くの  
医学者、及び栄養学者達のデータから  
解明がなされている。

3. 発明の詳細な説明

(1) 産業上の利用分野

この発明は天然の海水を利用した  
清涼飲料水に関する

(2) 従来の技術

最近になり清涼飲料は体適量、  
が研究開発され、成分に欠点がある  
水分、電解質をスムーズに補給  
する為に各種ミネラルを混入した

(2) 問題と解決行為の手段

従来化学者たちにより解明されている  
資料により海水に生命の源泉があり  
海水の含有天然ミネラルはまさに血液  
や血清、妊産婦の羊水、人間の体に  
最も近い成分であることが解明されてい  
る。清涼飲料水に海水を混入する事で

特開平4-120057 (2)

面例のミネラル配合をすることが体の健康上、為にも極めて理想的な清涼飲料水を提供することにある。

#### (四) 実施例

この発明の好ましい実施例を以下に説明する。差本的には3%~5%の海水を混入する。

尚上記割合はあくまでも、2つの例であってこれらの数値に限定されることなく必要に応じ種々増減可能である事という事もない。

天然の海水の含むミネラル及び成分はすでに多くの化学者に解明されている必要があればその成分を添加すること出来る。

いすれにせよ生命の源である天然の海水を水に清涼飲料水は今日に付かるものである。

#### (八) 発明の効果

この発明は以上述べた如く天然の海水を混入することにより次の様な優れた効果を奏する。

- ① 面例のミネラル配合が必要となるのでコストが削減できる
- ② バランスのとれたミネラルを自然に摂取できるので栄養学上の価値は増し、
- ③ 従来の清涼飲料水に比べて体に浸透しやすい。
- ④ 海水と他の成分の組み合わせによってあらゆる料理にも利用出来るので食事で利便性には各種ミネラルを摂取すること可能となるので健康上にも丈夫な骨や体を創出出来る。
- ⑤ 海水、各種ミネラルの趣きにより他の成分の味を引き出してくれるのでおいしく味わうことが出来る。



Japanese patent laid-open No. 4-126057 (published on April 27, 1992)  
Application No. 2-244103 (filed on September 17, 1990)  
Inventor: Tadayuki SATO  
Applicant: NICHII SUISENKOUREN Co., Ltd.



Title: Soft rink containing brine

Claims (single claim):

1. Soft rink, characterized in that following components are mixed under stirring in brine: suitable amount of water, sugars, fruit juice, protein, amino acid, vitamin, plant extract, carbonic acid, perfume, sweetener, lactic acid and lactic acid bacteria, mel, nicotinic acid, L-sodium glutamate, acidulant, thickener, colorant, stabilizer, emulsifier, fibers, fat, ash, arginine, caffeine, preservative and caramel.

Detailed description of Invention

(1) Field of Invention

This invention relates to use of natural brine to prepare a soft rink.

(2) Prior arts

It is recent tend to develop such soft drinks as possessing an osmotic presser value which is similar to that of human body. Soft drinks also contain water and minerals so as to replenish electrolytes which are apt to be lost by hidrosis. However, known soft drinks have several demerits.

(3) Problems to be solved by the Invention

Many medical and nutritional data reveal that ideal soft drink must contain also a variety of minerals in addition to electrolytes lost by hidrosis.

(4) Means to solve the problems

Chemists revealed such a fact that a composition of brine is mostly similar to body fluid, blood serum and amnion liquid. Inventor founds that an ideal soft drink can be produced by simply incorporating brine into usual soft drink.

(5) Examples

Basically 3 to 5 % of brine is added to a soft drink, but this value is simply an example. The composition of brine is known. If necessary, applicant will submit the data. In any way, soft drink containing brine is novel.

(6) Advantages

Following advantages are obtained by mixing natural brine:

- 1) Cost can be reduced since complicated compounding of minerals is not necessary,
- 2) One can ingest a variety of minerals in balanced condition,
- 3) Osmosis become much easier than known soft drinks,
- 4) Stronger bone and body can be created,
- 5) Taste is improved because minerals in brine derive gust of other components.